

House Bill 1312 (AS PASSED HOUSE AND SENATE)

By: Representative Pruett of the 144th

A BILL TO BE ENTITLED

AN ACT

1 To create the Bleckley County School Building Authority and to authorize such authority to
2 provide, acquire, construct, equip, maintain, and operate public service facilities, to acquire
3 the necessary property therefor, both real and personal, and to lease or sell any or all of such
4 facilities, including real and personal property; to confer powers and to impose duties on the
5 authority; to provide for the membership and for the appointment of members of the
6 authority and their term of tenure and compensation; to authorize the authority to contract
7 with the and Bleckley County School District pertaining to facilities and services, to execute
8 leases and contracts relating to such facilities and services, to convey title to property of the
9 authority in fee simple, and to do all things deemed necessary or convenient for the operation
10 of such undertakings; to authorize the authority and the Bleckley County School District to
11 enter into contracts and leases pertaining to uses of such facilities and services, which
12 contracts and leases shall obligate the lessees to make payment for the use of such facilities
13 and services for the term thereof and to pledge for that purpose revenues derived from
14 taxation; to provide that no debt of the Bleckley County School District or other political
15 subdivisions within the meaning set forth in Article IX, Section V, Paragraph I of the
16 Constitution of the State of Georgia, shall be incurred by exercise of the powers granted; to
17 authorize the issuance of revenue bonds or obligations of the authority, payable from the
18 revenues, tolls, fees, charges, and earnings of the authority, including, but not limited to,
19 earnings derived from contracts, leases, and income from conveyances of real or personal
20 property of the authority; to authorize the payment of the cost of such undertakings, to
21 authorize the collection and pledging of the revenues and earnings of the authority for the
22 payment of such bonds or obligations and to secure the payment thereof; to define the rights
23 of the holders of such bonds or obligations; to make the bonds or obligations of the authority
24 exempt from taxation; to make the property of the authority exempt from taxation and
25 assessment; to grant the authority and its members certain immunities; to authorize the
26 issuance of refunding bonds or obligations; to fix the venue or jurisdiction of actions relating
27 to any provisions of this Act; to provide that bonds or obligations be validated as authorized
28 by Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law"; to provide

1 for construction; to provide for conveyance of property upon dissolution; to repeal
2 conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Short title.

6 This Act shall be known and may be cited as the "Bleckley County School Building
7 Authority Act."

8 **SECTION 2.**

9 Bleckley County School Building Authority.

10 (a) There is hereby created a public body corporate and politic to be known as the
11 "Bleckley County School Building Authority," which shall be deemed to be a political
12 subdivision of the state and a public corporation, and by that name, style, and title said
13 body may contract and be contracted with, sue and be sued, implead and be impleaded, and
14 complain and defend in all courts of law and equity except that the authority or the trustee
15 acting under a trust indenture shall in no event be liable for any torts committed by any of
16 the officers, agents, and employees of the authority. The authority shall not be a state
17 institution, nor a department or agency of the state, but shall be an instrumentality of the
18 state having a distinct corporate entity, exercising governmental powers, and being exempt
19 from the provisions of Article 2 of Chapter 17 of Title 50 of the O.C.G.A., the "Georgia
20 State Financing and Investment Commission Act." The authority is granted the same
21 exemptions and exclusions from taxes as are now granted to school districts for the
22 operation of facilities similar to facilities to be operated by the authority as provided under
23 the provisions of this Act. The authority shall have perpetual existence.

24 (b) The authority shall consist of five members who shall be appointed by the governing
25 authority of the Bleckley County School District. Each member shall serve a term of four
26 years, except that two of the initial members appointed by the governing body shall serve
27 an initial term of two years. Thereafter, all appointments shall be made for terms of four
28 years and until successors are appointed and qualified. Immediately after such
29 appointments, the members of the authority shall enter upon their duties. If at the end of
30 any term of a member, a successor has not been appointed, such member shall continue to
31 be a member of the authority until a successor is so appointed. To be eligible for
32 appointment as a member of the authority, a person shall be at least 21 years of age and a

1 resident of Bleckley County, Georgia, for at least two years prior to the date of his or her
2 appointment and shall not have been convicted of a felony. Any member of the authority
3 may be selected and appointed to succeed himself or herself.

4 (c) Any vacancy on the authority shall be filled in the same manner as was the original
5 appointment of the member whose termination of membership resulted in such vacancy,
6 and the person so selected and appointed shall serve for the remainder of the unexpired
7 term.

8 (d) Prior to assuming office as a member of the Authority, each member shall subscribe
9 to the following oath: "You do solemnly swear or affirm that you will diligently and
10 honestly administer the affairs of the Bleckley County School Building Authority which
11 have been entrusted to you and that you will not knowingly violate or willingly permit to
12 be violated any law applicable to the Authority; that you are not the holder of any
13 unaccounted for public money due this state or any political subdivision thereof; that you
14 are not the holder of any office of trust under the government of the United States, any
15 other state, or any foreign state which you are by the laws of the State of Georgia
16 prohibited from holding; that you are otherwise qualified to hold said office according to
17 the Constitution and laws of Georgia; and that you will support the Constitution of the
18 United States and of this State."

19 (e) The governing authority of the Bleckley County School District may provide by
20 resolution that such members shall be reimbursed for their actual expenses necessarily
21 incurred in the performance of their duties.

22 (f) The members of the authority shall elect one of their number as chairperson and
23 another as vice chairperson. The members of the authority shall also elect a secretary, who
24 need not be a member of the authority, and may also elect a treasurer, who need not be a
25 member of the authority. The secretary may also serve as treasurer. If the secretary or
26 treasurer are not members of the authority, such officers shall have no voting rights. Each
27 of such officers shall serve for a period of one year and until their successors are duly
28 elected and qualified.

29 (g) Three members of the authority shall constitute a quorum. No vacancy on the authority
30 shall impair the right of the quorum to exercise all of the rights and perform all of the
31 duties of the authority.

32 (h) The authority shall make rules and regulations for its own governance. Any change in
33 the name or composition of the authority shall in no way affect the vested rights of any
34 person under the provisions of this Act or impair the obligations of any contracts under this
35 Act.

SECTION 3.

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing buildings, facilities, and services for the officers, agents, students, teachers, patrons and employees of the Bleckley County School District.

SECTION 4.

Definitions.

As used in this Act, the term:

(1) 'Authority' means the Bleckley County School Building Authority created by this Act.

(2) 'Costs of the project' means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for one year after completion of construction; the cost of engineering, architectural, fiscal agents' expenses, legal expenses, plans and specifications, and other expenses necessary or incidental to determining the feasibility or practicability of the project; administrative expenses and such other expenses as may be necessary or incident to the financing authorized in this Act; working capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip, operate, and maintain the project. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds or notes issued under the provisions of this Act for such project.

(3) 'Project' means all buildings and facilities necessary or convenient for the efficient operation of the Bleckley County School District.

(4) 'Revenue Bond Law' means the Revenue Bond Law of the State of Georgia, codified at Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, or any other similar law hereinafter enacted.

(5) 'Revenue bonds' means revenue bonds authorized to be issued pursuant to this Act.

(6) 'Self-liquidating' means any project from which the revenues and earnings to be derived by the authority therefrom, including but not limited to any contractual payments with governmental or private entities, and all properties used, leased, and sold in connection therewith, together with any grants, will be sufficient to pay the costs of operating, maintaining, and repairing the project and to pay the principal and interest on

1 the revenue bonds or other obligations which may be issued for the purpose of paying the
2 costs of the project.

3 (7) "State" means the State of Georgia.

4 **SECTION 5.**

5 Powers.

6 The authority shall have the power:

7 (1) To have a seal and alter the same at its pleasure;

8 (2) To acquire by purchase, lease, gift, or otherwise and to hold, operate, maintain, lease,
9 and dispose of real and personal property of every kind and character for its corporate
10 purposes;

11 (3) To acquire in its own name by purchase on such terms and conditions and in such
12 manner as it may deem proper, real property or rights or easements therein or franchises
13 necessary or convenient for its corporate purposes, to use the same so long as its
14 corporate existence shall continue, to lease or make contracts with respect to the use of
15 the same, or to dispose of the same in any manner it deems to the best advantage of the
16 authority. No property shall be acquired under the provisions of this Act upon which any
17 lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient
18 sum of money is to be deposited in trust to pay and redeem the fair value of such lien or
19 encumbrance. If the authority shall deem it expedient to construct any project on lands
20 which are subject to the control of the Bleckley County School District, the School
21 District is authorized to convey such lands to the Authority for such consideration as may
22 be agreed upon by the authority and the Bleckley County School District, taking into
23 consideration the public benefit to be derived from such conveyance;

24 (4) To exercise the powers conferred upon a "public corporation" or "public authority"
25 by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority
26 being hereby expressly declared to be a "public corporation" or "public authority" within
27 the meaning of such provision of the Constitution of Georgia;

28 (5) To appoint, select, and employ officers, agents, and employees, including
29 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
30 their respective compensations;

31 (6) To execute contracts, leases, agreements, and instruments necessary or convenient
32 in connection with the acquisition, construction, addition, extension, improvement,
33 equipping, operation, or maintenance of the Project; and any and all persons, firms,
34 corporations and the and Bleckley County School District is authorized to enter into

1 contracts, leases, agreements, or instruments with the authority upon such terms and for
2 such purposes as they deem advisable and as they are authorized to enter into by law;

3 (7) To acquire, construct, add to, extend, improve, equip, operate, and maintain projects;

4 (8) To pay the costs of projects with the proceeds of revenue bonds or other obligations
5 issued by the authority or from any grant or contribution from the United States of
6 America or any agency or instrumentality thereof or from the State or any agency or
7 instrumentality or other political subdivision thereof or from any other source
8 whatsoever;

9 (9) To accept loans or grants of money or materials or property of any kind from the
10 United States of America or any agency or instrumentality thereof upon such terms and
11 conditions as the United States of America or such agency or instrumentality may
12 require;

13 (10) To accept loans or grants of money or materials or property of any kind from the
14 State or any agency or instrumentality or political subdivision thereof upon such terms
15 and conditions as the State or such agency or instrumentality or political subdivision may
16 require;

17 (11) To borrow money for any of its corporate purposes from any bank, banks or lending
18 institution; to execute notes or other evidences of such indebtedness; and to secure the
19 same by assigning all rights and pledging all funds to be received by the authority from
20 a contract or lease entered into by the authority and the Bleckley County School District;

21 (12) To issue revenue bonds, and to provide for the payment of the same and for the
22 rights of the holders thereof;

23 (13) To sell, lease, grant, exchange, or otherwise dispose of any surplus property, both
24 real and personal, or interest therein not required in the normal operation of and usable
25 in the furtherance of the purpose for which the authority was created;

26 (14) To exercise any power usually possessed by private corporations performing similar
27 functions, including the power to incur short-term debt and to approve, execute, and
28 deliver appropriate evidence of any such indebtedness; and

29 (15) To do all things necessary or convenient to carry out the powers expressly given in
30 this Act.

31 **SECTION 6.**

32 Revenue bonds.

33 The authority, or any authority or body which has or which may in the future succeed to the
34 powers, duties, and liabilities vested in the authority created by this Act, shall have power
35 and is authorized to provide by resolution for the issuance of revenue bonds of the authority

1 for the purpose of paying all or any part of the costs of the project and for the purpose of
2 refunding revenue bonds or other obligations previously issued. The principal of and interest
3 on such revenue bonds shall be payable solely from the special fund provided for such
4 payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or
5 rates per annum payable at such time or times, shall mature at such time or times not
6 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
7 to both principal and interest as may be determined by the authority, and may be redeemable
8 before maturity, at the option of the authority, at such price or prices and under such terms
9 and conditions as may be fixed by the authority in the resolution for the issuance of such
10 revenue bonds. Such revenue bonds or obligations shall be issued pursuant to and in
11 conformity with the Revenue Bond Law, and all procedures pertaining to such issuance and
12 the conditions thereof shall be the same as those contained in said article and any
13 amendments thereto.

14 **SECTION 7.**

15 Same; negotiability; exemption from taxation.

16 All revenue bonds shall have and are declared to have all the qualities and incidents of
17 negotiable instruments under the laws of the State. All revenue bonds and their transfer and
18 the income therefrom shall be exempt from all taxation within the State.

19 **SECTION 8.**

20 Same; sale; price; proceeds.

21 The authority may sell revenue bonds in such manner and for such price as it may determine
22 to be in the best interest of the authority through negotiated or public sale, and the proceeds
23 derived from the sale of revenue bonds shall be used solely for the purpose provided in the
24 resolutions and proceedings authorizing the issuance of such revenue bonds.

25 **SECTION 9.**

26 Same; conditions precedent to issuance.

27 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
28 resolution, the authority shall determine that the project financed with the proceeds of the
29 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
30 proceedings or the happening of any other conditions or things other than those proceedings,
31 conditions, and things which are specified or required by this Act. Any resolution providing

1 for the issuance of revenue bonds under the provisions of this Act shall become effective
2 immediately upon its passage and need not be published or posted, and any such resolution
3 may be passed at any regular or special or adjourned meeting of the authority by a majority
4 of its members.

5 **SECTION 11.**

6 Same; credit not pledged.

7 Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a
8 debt of the State or any political subdivision thereof, nor a pledge of the faith and credit
9 thereof; but such bonds shall be payable solely from the rentals, revenues, earnings, and
10 funds of the authority as provided in the resolution or trust agreement or indenture
11 authorizing the issuance and securing the payment of such bonds; and the issuance of such
12 revenue bonds shall not directly, indirectly, or contingently obligate the state or any political
13 subdivision thereof to levy or to pledge any form of taxation whatsoever therefor or to make
14 any appropriation for their payment, and all such bonds shall contain recitals on their fact
15 covering substantially the foregoing provisions of this section. However, any political
16 subdivision contracting with the authority may obligate itself to pay the amounts required
17 under any contract entered into with the authority from funds received from taxes to be
18 levied and collected for that purpose to the extent necessary to pay the obligations
19 contractually incurred under this section and from any other source. The obligation to make
20 such payments shall constitute a general obligation and a pledge of the full faith and credit
21 of the obligor but shall not constitute a debt of the obligor within the meaning of Article IX,
22 Section V, Paragraph I of the Constitution. When such obligation is made to make such
23 payments from taxes to be levied for that purpose, then the obligation shall be mandatory to
24 levy and collect such taxes from year to year in an amount sufficient to fulfill and fully
25 comply with the terms of such obligation.

26 **SECTION 12.**

27 Same; trust indenture as security.

28 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
29 indenture by and between the authority and a corporate trustee, which may be any trust
30 company or bank having the powers of a trust company within or outside the State. Either
31 the resolution providing for the issuance of the revenue bonds or such trust indenture may
32 contain such provisions for protecting and enforcing the rights and remedies of the
33 bondholders as may be reasonable and proper and not in violation of law, including

covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all moneys.

SECTION 13.

Same; to whom proceeds of bonds shall be paid.

In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the revenue bonds to any officer or person who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes thereof, subject to such regulations as this Act and such resolution or trust indenture may provide.

SECTION 14.

Same; sinking fund.

The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls, fines, charges, and earnings derived from any particular project or projects, regardless of whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular project for which revenue bonds have been issued, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the revenue bonds or the trust indenture may provide. Such funds so pledged from whatever source received shall be set aside at regular intervals as may be provided in the resolution or trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds as the same shall fall due;
- (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- (3) Any premium upon such revenue bonds as the same shall fall due;
- (4) The purchase of such revenue bonds in the open market; and
- (5) The necessary charges of the paying agent for paying principal and interest.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over another.

SECTION 15.

Same; remedies of bondholders.

Any holder of revenue bonds or any of the coupons appertaining thereto and the trustee under the trust indenture, if any, except to the extent the rights given in this Act may be restricted by resolution passed before the issuance of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State, including specifically but without limitation, the Revenue Bond Law, or granted under this Act or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this Act or by such resolution or trust indenture to be performed by the authority or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and services furnished.

SECTION 16.

Same; validation.

Revenue bonds of the authority shall be confirmed and validated in accordance with the procedures set forth in the Revenue Bond Law. The petition for validation shall also make party defendant to such action the State of Georgia or any municipality, county, authority, political subdivision, or instrumentality of the State of Georgia or the United States or any department or agency thereof, if subject to being sued and if consenting to same, which has contracted with the authority for the services and facilities of the project for which bonds are to be issued and sought to be validated. The state or such municipality, county, authority, political subdivision, or instrumentality shall be required to show cause, if any, why such contract or contracts and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract or contracts adjudicated as part of the basis of the security for the payment of any such revenue bonds of the authority. The revenue bonds when validated, and the judgment of validation, shall be final and conclusive with respect to such bonds, the security for the payment thereof, and interest thereon and against the authority issuing the same and the state and any municipality, county, authority, political subdivision, or instrumentality, if a party to the validation proceedings, contracting with the authority.

SECTION 17.

Same; venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against such authority shall be brought in the Superior Court of Bleckley County, Georgia, and any action pertaining to validation of any revenue bonds issued under the provisions of this Act shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.

SECTION 18.

Same; interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of said authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds, and no other entity, department, agency, or authority shall be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such revenue bonds nor shall the State itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and the holders of any such revenue bonds and, upon the issuance of such revenue bonds under the provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

SECTION 19.

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 20.

Rates, charges, and revenues; use.

The authority is authorized to prescribe and fix rates and to revise same from time to time and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities furnished and, in anticipation of the collection of the revenues, to issue revenue bonds or other types of obligations as provided in this Act to finance, in whole or in part, the costs of

1 the project and to pledge to the punctual payment of said revenue bonds or other obligations
2 all or any part of the revenues.

3 **SECTION 21.**

4 Rules, regulations, service policies, and procedures for operation of projects.

5 It shall be the duty of the authority to prescribe rules, regulations, service policies, and
6 procedures for the operation of any project or projects constructed or acquired under the
7 provisions of this Act, including the basis upon which educational services and facilities and
8 other public services and facilities shall be furnished. The authority may adopt bylaws.

9 **SECTION 22.**

10 Tort immunity.

11 To the extent permitted by law, the authority shall have the same immunity and exemption
12 from liability for torts and negligence as the Bleckley County School District; and the
13 officers, agents, and employees of the authority when in the performance of the work of the
14 authority shall have the same immunity and exemption from liability for torts and negligence
15 as the officers, agents, and employees of the Bleckley County School District in the
16 performance of their public duties or work of the Bleckley County School District.

17 **SECTION 23.**

18 Property not subject to levy and sale.

19 The property of the authority shall not be subject to levy and sale under legal process.

20 **SECTION 24.**

21 Tax-exempt status of authority.

22 The creation of the authority and the carrying out of its corporate purpose shall be a public
23 purpose and in all respects for the benefit of the people of this state. The properties of the
24 authority, both real and personal, are declared to be public properties used for the benefit and
25 welfare of the people of the State and not for purposes of private or corporate benefit and
26 income. The authority will be performing an essential governmental function in the exercise
27 of the power conferred upon it by this Act and the authority shall be required to pay no taxes
28 or assessments upon any of the property acquired or leased by it or under its jurisdiction,
29 control, possession, or supervision or upon its activities in the operation or maintenance of

1 the buildings erected or acquired by it or any fees, rentals, or other charges for the use of
2 such buildings or other income received by the authority and that the bonds of the authority
3 and the income therefrom shall at all times be exempt from taxation within any municipality
4 or county or the State or any political subdivision thereof.

5 **SECTION 25.**

6 Effect on other governments.

7 This Act shall not and does not in any way take from Bleckley County, or any county or
8 municipality the authority to own, operate, and maintain facilities or to issue revenue bonds
9 as provided by the Revenue Bond Law.

10 **SECTION 26.**

11 Liberal construction of Act.

12 This Act, being for the welfare of various political subdivisions of the State and its
13 inhabitants, shall be liberally construed to effect the purposes hereof.

14 **SECTION 27.**

15 Scope of operations.

16 The scope of the authority's operation shall be limited to the territory embraced within
17 Bleckley County.

18 **SECTION 28.**

19 General repealer.

20 All laws and parts of laws in conflict with this Act are repealed.